

**Council for Trade in Services
Special Session**

**REPORT OF THE MEETING HELD ON 1 DECEMBER 2000
ON THE TREATMENT OF AUTONOMOUS LIBERALIZATION**

Note by the Secretariat

1. The Council for Trade in Services held a Special Session on 1 December 2000, devoted to the issue of treatment of autonomous liberalization. The agenda for the meeting is contained in document WTO/AIR/1450. The agenda was adopted.
2. Representatives who took the floor thanked the delegations of Hong Kong, China; and the Republic of Korea for their informal written contributions. Most representatives indicated that their comments at this meeting were of a preliminary nature.
3. The Chairman recalled that paragraph 3 of Article XIX of the GATS required that the guidelines and procedures for the negotiations also "establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, ...". This subject had been under consideration since the preparatory stage before the Seattle Ministerial. Although there was universal agreement that the Article XIX requirement had to be fulfilled, the substantive issues involved had not yet been fully discussed. In previous discussions on this subject, concepts like credit and recognition, had been mentioned but without any clarification of what they would need operationally. Even the concept of autonomous liberalization seemed to have lent itself to different interpretations. At the last meeting of the Council in Special Session on 5 and 6 October, there had been significant support for convening this meeting to have a focused discussion on the issues relating to the treatment of autonomous liberalization. This would hopefully give guidance on how to deal with this subject in the preparation of the negotiating guidelines. He drew attention to the two informal documents received, respectively, from the delegations of Hong Kong, China (Job No. 7580, 27 November 2000) and from the Republic of Korea (Job No. 7634, 28 November 2000 and 7634/Add.1, 30 November 2000). He invited the Secretariat to introduce the theme.
4. A representative of the Secretariat said that he would focus on the historical aspects of the subject rather than on policy questions. Autonomous liberalization first became a negotiating issue during the Uruguay Round and was discussed quite extensively in the negotiating group on market access. The product of those discussions was a paper distributed in December 1991 by the Chairman of that Group. It was called the *Chairman's guidelines on (a) Credit for tariff bindings and the liberalisation of non-tariff measures, (b) Recognition for autonomous liberalization measures*.¹ These guidelines had no legal force. The essential difficulty was that contracting parties could not agree as to whether autonomous liberalization meant tariff bindings undertaken autonomously, or the application of tariffs below bound rates. The first part of this paper dealt with credit being given for tariff bindings and presented various formulas for this purpose. Paragraph 9, which was the only one dealing with autonomous liberalization, read: "Developing countries which have autonomously liberalized tariffs or non-tariff measures since 1 June 1986, will be given appropriate recognition by

¹ MTN.GNG/MA/W/13, dated 19 December 1991.

other individual participants in the context of achieving the Uruguay Round trade liberalization objectives. Longer term approaches to this issue need to be determined". What countries had done in relation to this paper in their bilateral tariff negotiations remained unknown; since they could not agree on what they were to give recognition for, it was not clear whether and how actual recognition had taken place. More recently, in discussions which took place on 11 December 1998 in the General Council on coherence between the International Monetary Fund, the World Bank and the WTO, some developing countries had said that they had been undertaking liberalization measures in the context of adjustment programmes agreed with the IMF or the World Bank. These countries had argued that recognition should be given for those measures, which had not been done in the context of GATT negotiations. Document WT/GC/W/140 contained a checklist of issues raised during that discussion, including a paragraph on autonomous liberalization. "... The process applies most obviously to binding import tariffs in the area of trade in goods and binding schedules of access commitments in the area of trade in services, but it can apply equally to trade liberalization commitments undertaken in other areas covered by WTO rules (e.g., domestic support and export subsidy commitments undertaken in the Agreement on Agriculture)"². The essential problem in these discussions had been to decide whether autonomous liberalization was trade liberalization undertaken and bound in an autonomous manner, i.e. outside the context of a negotiation, or trade liberalization undertaken unilaterally but not bound.

5. The representative of Hong Kong, China thanked the Secretariat for its introductory comments, which showed how difficult it had been to tackle this subject in the past. The informal contribution presented by his delegation proposed, first, to consider whether the actual text of Article XIX might provide any insights and explored the meaning of concepts such as "undertaken autonomously", "previous negotiations", "modalities", and "treatment". The actual location of this phrase or sentence on autonomous liberalization in Article XIX:3 was also considered. His delegation concluded that this analysis provided mixed signals. Many of the terms used, such as "modalities" "treatment", were neutral. Hong Kong, China's conclusion on "undertaken autonomously" basically derived from a definition in the dictionary, but Members might want to discuss it. Secondly, the paper considered the reasons why the GATS made specific mention of autonomous liberalization and why Members should establish different modalities for its treatment. The conclusion on this point was that the main reason must have been to acknowledge in some positive way these measures undertaken autonomously by Members. Another reason could be to add transparency to the process. Paragraph 10 of the paper asked whether there should be a difference in the significance attached, in trade negotiation terms, to what might be different sorts of autonomous liberalization. Thirdly, the paper suggested ways to actually deal with autonomous liberalization - how it might be recognised, and how credit might be given to it. His delegation saw considerable difficulty in giving concrete credit, and would be very interested to hear if and how Members thought this could be possible. Hence the suggestion in section (d) of the paper, to combine bilateral and multilateral recognition.

6. The representative of the Republic of Korea noted that, in considering the written contribution presented by his delegation, Members should read first Job No. 7634/Add.1, and then, Job No. 7634. He said that this informal contribution proceeded from a slightly different angle than the Hong Kong, China paper, but might nevertheless be considered as an elaboration of option (c) of that paper. Unfortunately, the drafters of the GATS had not laid out how autonomous liberalization should be treated. In his delegations' view, autonomous trade liberalization was an act to be praised, as it benefitted all Members. The WTO was working on the premise that more liberalization was better than less liberalization. Article XIX of the GATS also contained a mandate to develop modalities for the treatment of autonomous liberalization. Korea believed any modality to be developed should satisfy at least the following two requirements: first, a Member which had liberalised trade autonomously must not be required to liberalize more than other Members that had not undertaken as much liberalization; second, the modalities to be developed should be applied on a

² WT/GC/W/149, dated 3 February 1999, page 2. A longer account of those discussions could be found in document WT/GC/M/32, dated 9 February 1999.

cross-sectoral basis, not on a sectoral basis, i.e., autonomous liberalization in one sector could confer benefit to other sectors. Based on the aforementioned premises, the following six questions needed to be addressed for any modalities to be developed: (i) scope of the trade liberalization measures: it should be decided whether the liberalization measures included all the measures as defined in the GATS, or whether they had to be confined to measures listed in the schedule of specific commitments, including additional commitments; (ii) scope of notification: it should be decided whether all liberalization measures were to be notified or only those measures which a Member wanted recognition for; (iii) value of the liberalization measures: it had to be decided how the value of a liberalization measure should be assessed, as liberalization measures had different values depending on the modes, sectors and also their weight in the economy. Moreover, the same measure might be valued differently by trading partners; (iv) assessing entity: who would assess liberalization measures? Even if the same criteria were used, the assessment would be different depending on who actually made it. Thus, it might be more appropriate if all assessments were made by the same entity; (v) recognition/credit for liberalization: how to recognise this assessment? If a mechanism was developed for the assessment, then it should be decided how to translate this assessment into recognition during the negotiations; (vi) binding status: if assessment was done, and treatment was given, then it should be decided whether such modality would be given any binding status.

7. The representative of Japan said that his delegation wished to present four points that should be considered in relation with the issue of autonomous liberalization. First, it was important to have a common understanding on key concepts, such as "autonomous liberalization", "recognition" or "credit". In this regard, Hong Kong, China's analysis on Article XIX should be given further consideration. Second, the relationship between negotiations and autonomous liberalization should be kept in mind. Negotiations should not discourage Members from making autonomous liberalization, and, therefore, some kind of compensation might be thought of. In any event, it was important to share information on autonomous liberalization. Third, it was important to ensure transparency and to share information on autonomous liberalization. If autonomous liberalization was made in sectors in which a Member had already made specific commitments, it should be notified in accordance with Article III:3 of the GATS. In view of the importance of sharing information on autonomous liberalization, some kind of credit could be thought of. The fourth point was whether autonomous liberalization should be dealt with bilaterally or multilaterally. In this regard, both Korea and Hong Kong, China's papers deserved further consideration. Japan was interested in Korea's suggestion that autonomous liberalization could be dealt with multilaterally. However, bilateral request-and-offer type negotiations would remain a central pillar, and, therefore, it should be considered how to treat autonomous liberalization in a bilateral framework. In this regard, Hong Kong, China's suggestion to combine multilateral and bilateral negotiations was also worth considering. He asked Hong Kong, China what the word "recognition" implied and what was the difference between *de facto* level and actual level? He noted that the issue of autonomous liberalization was related to the issue of how to proceed with the negotiations.

8. The representative of Senegal said that this topic was particularly important for developing countries in the services negotiations. This meeting should also be seen in the context of the implementation of Article XIX and his delegation was pleased to see that different activities had been carried out with the objective to implement Article XIX, such as the roadmap or the seminar on services statistics. These activities sent a strong and positive signal to the membership of the WTO to trigger services negotiations. He requested the Secretariat to prepare an analytical study on the issue at stake, based, *inter alia*, on the papers presented by Korea and Hong Kong, China. It might also be useful if the Secretariat could produce a checklist of issues, including legal considerations, which would help to better address the subject matter in future negotiations.

9. The representative of Mauritius thanked the delegations of Korea and Hong Kong, China for their written submissions, which provided an important insight on how to proceed. This topic was of utmost importance for his delegation and for the African Group, and deserved detailed consideration.

As suggested by Hong Kong, China, a number of concepts had to be clarified. Work on this topic would permit to assess to what extent countries like Mauritius benefitted from the trading system.

10. The representative of Hungary said that his delegation agreed with paragraph 3 of the paper by Hong Kong, China. The term "undertaken autonomously" in Article XIX:3 clearly suggested that this type of liberalization was undertaken by individual Members on a voluntary basis, which would not exclude the possibility of binding it under the GATS. In Hungary's opinion, autonomous liberalization was something that WTO Members chose to do mainly because of domestic policy considerations, because they believed that increasing competition would further economic development. This process was clearly in line with the overall objectives behind the GATT/WTO system, including the GATS. The problem these countries obviously faced was whether, by undertaking autonomous liberalization, they weakened their own bargaining position in new multilateral round of negotiations. Against this background, Hungary considered that any modalities agreed upon should provide an incentive for autonomous liberalization. He shared the view expressed in paragraph 11 of the Hong Kong, China paper that such treatment might reasonably be expected to involve some form of recognition or credit. It was also clear that, in order to be able to determine the adequate form and extent of recognition or credit, the value of autonomous liberalization should be assessed. This might be difficult, if not impossible, if Members undertaking autonomous liberalization were not ready to bind it at least in part. The reason was simple: in the absence of a binding once credit was given, those Members would be completely free to change their regime. Therefore, it seemed logical that Members seeking recognition or credit for autonomous liberalization should be ready to bind the measure at least in part. On the question of how recognition or credit should or could be effectively be given, he believed that it could or should be done in the context of negotiations. The range of options proposed by Hong Kong, China deserved careful consideration. His delegation believed that the bilateral request/offer method should be the main negotiating technique in the new round and offered the best avenue for recognition. The CTS might also discuss and agree on a list of factors to be taken into account during these bilateral discussions.

11. The representative of India said that the modalities for the treatment of autonomous liberalization should not result in simply asking countries to bind such liberalization. It was necessary to appreciate and agree that autonomous liberalization did meet the objectives of WTO and the Services Council. Autonomous liberalization should not be completely left to a bilateral process of bargaining; if it were so, drafters would not have referred to it in Article XIX. It was, however, more difficult to say definitively what the modalities should entail. On a preliminary basis, India believed that there should be more favourable treatment for countries having undertaken autonomous liberalization, but it remained to be decided how this should be done. Second, there should be some multilaterally agreed criteria. Third, while autonomous liberalization need not take place in all sectors, it was important to know whether it had resulted in valuable market access benefits for the country's trading partners. The ideas of credit and recognition should be explored further. *De facto* market access granted by a Member should be compensated for. Transparency was an important aspect. In fact, many countries having carried out autonomous liberalization might not know themselves the value of such liberalization. It was therefore important to assess in a multilateral forum how many countries had undertaken autonomous liberalization and what they had done. Finally, modalities had to establish some difference in treatment between countries that had undertaken autonomous liberalization and those who had not. India wondered whether there should be an understanding that the offers of those having undertaken such autonomous liberalization should have more leverage and bargaining power in the forthcoming negotiations than those who had not. He pointed out to the voluntary character of autonomous liberalization, as mentioned in paragraph 3 of the Hong Kong, China paper. Paragraphs 8 and 9, which established the concept of a concession, were also important. A related issue was the difference between a bound and a voluntary concession. In India's view, a bound concession was subject to dispute settlement, while a voluntary concession was not. A bound concession offered security and predictability, and was irreversible. Voluntary concession did not share these characteristics. However, a voluntary concession was undertaken by countries not merely in their national interest, but also because governments wanted to "try and see"

for some time. In this context, the duration of autonomous liberalization might be an aspect to be addressed.

12. The representative of the European Communities supported the request made by Senegal that the Secretariat should prepare a detailed analysis of the issue. For the EC, autonomous liberalization was essentially a question of transparency. What was needed was a procedure for Members to report to the WTO their actual level of liberalization in services sectors. This could be done at the time of the Stock-taking, because it was a crucial element for the market access negotiations. In this regard, the EC had started a long and complex study on the "European acquis", the purpose of which was to compare commitments with existing regimes. Autonomous liberalization had to be more precisely defined and, as proposed by Hong Kong, China, some work was needed on definitions. On the question of credit and recognition, the EC had very incomplete thoughts but was not convinced that detailed rules were needed since recognition was essentially given on a bilateral basis. Rather, one should avoid to create a classification on the quality of liberalization undertaken by Members. This was the reason why credit should be granted in relation to the binding of autonomous liberalization, but not to autonomous liberalization itself. The bilateral request and offer process was probably the best way to give recognition to autonomous liberalization.

13. The representative of Israel said that it was essential in the long run that Members be encouraged to undertake autonomous liberalization measures. Therefore, the modalities for autonomous liberalization should create incentives to liberalize autonomously. Israel shared Hong Kong, China's view that autonomous liberalization referred to liberalization undertaken on a voluntary basis but not yet bound. With regard to giving credit to autonomous liberalization, Israel considered that Members, and in particular small countries, quite often needed to trade off between different services sectors, and across other sectors as well. Therefore, in order to meet this need, a way of recognizing autonomous liberalization would be to allow the binding of autonomous liberalization to be used as a leverage for receiving concessions in other sectors, in markets of other Members. In addition to discussing how to evaluate autonomous liberalization, it was important to discuss in parallel what benefits could be conferred to these countries in return for binding autonomous liberalization. In that regard, the concept of a formula credit system, as proposed by Korea, was very interesting and should be further examined.

14. The representative of Kenya said that, as clearly stipulated in Article XIX:3, Members should establish modalities for the treatment of liberalization undertaken autonomously. Like India, his delegation believed that credit should be given for autonomous liberalization. An analogous debate had taken place in the area of goods. Due recognition should be given to autonomous liberalization, without necessarily binding those measures, because this would, in essence, be contrary to the whole notion of progressive liberalization. Another issue related to autonomous liberalization was the whole issue of coherence. Most countries had undertaken these autonomous liberalization measures in the past two decades based on reform programmes that were advised by Bretton Woods institutions. For Kenya, coherence should be two-way, i.e. the institutions should give advice that was consistent with WTO commitments. Likewise, measures undertaken under the tutelage of those organizations – because they were essential for the attainment of development objectives – should also be given due recognition.

15. The representative of Chile said, since the conclusion of the Uruguay Round, Chile had continued to liberalize various services sectors. Part of these reforms had been reflected in Chile's commitments in the negotiations on telecommunications. The basic issue for Chile was how to give credit to autonomous liberalization. Autonomous liberalization should be given additional recognition so that countries would be encouraged to continue this process. The paper presented by Hong Kong, China contained useful ideas on what modalities could be used for additional recognition. Her delegations would come back later on the Korean paper.

16. The representative of the Czech Republic said that the text of Article XIX:3 should be understood that one of the basic premises for commencing new negotiations on specific commitments should be the granting of credits for autonomous liberalisation. This meant that commitments undertaken by Members in the Uruguay Round and subsequent mandated sectoral negotiations would be recognized by their trading partners as a basis and starting-point for the new round of negotiations on further concessions. A thorough reflection was needed on how to convert these valuable unilateral steps undertaken by individual Members into respective credits. A comparison with the question of autonomous liberalisation in the field of goods, where the situation was much more simple and clear, indicated how difficult and sensitive the issue was in the services area. Among the issues which should be examined: (i) definition: what was autonomous liberalisation? (ii) value: how to measure and compare individual autonomous liberalisation measures with respect to horizontal/specific commitments? (iii) impact on market access, national treatment and additional commitments: to what extent did such a measure open the market? (iv) scope of recognition: the question was either by respective trading partners or by all Members; (v) source of information: it should be through notifications to the WTO. Should an inventory of measures be set up? (vi) specific treatment for developing countries. The issue of autonomous liberalization should be on the agenda of the CTS as a standing item.

17. The representative of Poland said that his delegation wished to focus on three issues in relation with Hong Kong, China's paper. First, the most important issue to be addressed was to clarify the definition of terms, such as "credit", "recognition", "autonomous liberalization". He understood that "autonomous liberalization" meant liberalization undertaken by an individual Member on a voluntary basis, which had not yet been reflected in a form of binding commitments under an international treaty. Second, option (d), proposed in paragraph 11 of the Hong Kong, China paper, provided the most appropriate basis for further discussion. Third, modalities should not create an unconditional obligation for a Member to bind autonomous liberalization.

18. The representative of Thailand said that a good starting-point for the treatment of autonomous liberalization exercise was a voluntary notification of the measures. This notification should be voluntary and the notifying Member would not be bound by the notified measures. Although the measures being notified would not be bound at the outset, they could eventually become binding as a result of the negotiations. In Thailand's view, the practice of "strategic notification", as Korea had termed it, was to be expected. But, to be fair, a Member would have to be bound by all measures that had been granted corresponding credits as a result of the negotiations. Concerning what was meant by "negotiations", her delegations tended to rely on bilateral negotiations, but did not rule out the multilateral, formula approach proposed by Korea. The methodology proposed by Korea for credit granted proportionally to the improvement index, would imply that Members should agree, first, on a target of reduction that each Member had to meet during the new services round of negotiations, and, second, on a formula to attain such reduction. On the latter point, Thailand felt that, should such target be set as a percentage of national schedules, this did not appear to be beneficial or fair to developing countries because their score would be lower, regardless of the fact that their trade regime might not be so restrictive *de facto*. According to Thailand's preliminary calculations, developing countries would have to liberalise more than developed countries to achieve the same level of reduction on the basis of this method. Her delegation would like to hear more from Korea on this point. At this stage, to overcome this problem, she suggested that developing countries could be subject to a different level of reduction, or that the volume of trade in services be taken into account when setting the target of reduction; or a combination of these two options. Thailand's second point of concern related to the formula, and in particular, the derivation of the improvement index. According to Korea, the values which would be used for credit calculation would be those based on restrictions on market access and national treatment only. In many instances, regulatory restrictions such as licensing, which did not appear in the market access and national treatment columns, could have more restrictive effect than those that appeared in the schedules. However, at this stage, she could not find a proper way to take into account these restrictions and she admitted that it might be difficult to quantify these regulatory restrictions. Nevertheless, they should be borne in mind.

Another point of concern on the formula was how to assign value to each restriction. It was clear that assigning the same 0.5 to the foreign ownership restriction of 30 per cent and 90 per cent was unfair. The way schedules were currently written constituted another problem: for example, it was difficult to compare the current schedules in financial services because they were written differently. Furthermore, some scheduled restrictions or criteria that were worded in such a way as to render any corresponding commitment meaningless or impossible to implement might get a better score than a simple "unbound" commitment. Additional areas that Members could consider with respect to a formula approach included: (i) what type of service could or could not be provided in all four modes; (ii) what were the types of restrictions, if any, that could *de facto* defeat the purpose of the relevant commitments, which thus were not conducive to the intended liberalization; and, (iii) whether different scores could be assigned to different level of restriction taking into account their different economic and trade impacts. With respect to the Hong Kong, China paper, her delegation found interesting the suggestion contained in paragraph 11(d).

19. The representative of Canada said that her authorities had given some preliminary consideration to the relationship between autonomous liberalization and the binding of this liberalization, as well as the relationship between autonomous liberalization and the sharing of information about this liberalization. They had also reflected upon the question of appropriate treatment for autonomous liberalization, as well as on the fact that various levels of development existed among Members. So far, this thinking had yielded more questions than answers. As implied by the Korean paper, a variety of variables should be considered when dealing with autonomous liberalization. They might include, for example, the level of development of the Member undertaking autonomous liberalization, the pace at which the autonomous liberalization was occurring, or the impact of the liberalization on the liberalizing economy. Another question was whether the consideration of autonomous liberalization should vary in different negotiating contexts, i.e. whether it would be viewed differently in a bilateral request/offer process, as opposed to plurilateral or multilateral negotiations. It might be useful to address autonomous liberalization-related issues using concrete examples and, in this regard, she wondered whether a collective consideration of a case-study of autonomous liberalization previously notified to the Services Council could be a useful approach. Thought should be given to applying credit to the notion of transparency and notification. On the other hand, the concept of binding was fundamental to the GATS and to the WTO agreements, because it ensured predictability in today's increasingly integrated economies. The paper presented by Hong Kong, China, in particular the suggestions contained in paragraph 11, deserved further consideration. The fact that the Korean paper did not attempt to weigh the commitments taken across modes or sectors in terms of their economic or commercial significance, but rather accorded values to the commitments taken based on three levels of openness was something to reflect upon. Canada was, however, sceptical about the application of a general ranking of commitments irrespective of individual Members' market access interests.

20. The representative of Australia said that her delegation wanted to avoid hasty conclusions. A multilateral approach could only take shape during the negotiations, and probably not until the very end of the negotiations. At this stage, Australia was primarily considering granting credit for autonomous liberalisation as a bilateral process. Trading partners would trade-off improved market access commitments which were of commercial relevance to their respective industries. It might, however, be useful for the Council for Trade in Services to develop some guidelines for the treatment of autonomous liberalisation. For example, in terms of timing, credit should be granted for liberalisation undertaken since the last commitment made – either at the end of the Uruguay Round or subsequent agreements. Credit should be granted for bound commitments since binding was critical in order to promote predictable and transparent conditions for market access. Australia had read with interest the suggestions for ways to assess the value of autonomous liberalisation proposed by Hong Kong, China, and needed more time to assess the Korean paper. She supported the intervention made by the EC, in particular with the proposal to improve transparency.

21. The representative of New Zealand said that autonomous liberalization had, and would continue to be done voluntarily with a main focus on the domestic environment. When exploring this issue, there was a need to ensure that anything that might be developed in terms of a multilateral process should not inhibit or discourage Members from implementing any further autonomous liberalization. He considered that paragraph 11 of the Hong Kong, China paper clearly enunciated the tasks to be carried out, namely to establish modalities for the treatment of autonomous liberalization in the context of the mandated negotiations. Like other speakers, his delegation tended to see that the bilateral negotiating process was probably the best way to recognize autonomous liberalization, but there was a need for a certain degree of multilateral involvement in the process, particularly in terms of transparency. Paragraph 11(d) of the Hong Kong, China paper provided a very useful basis for future discussions. New Zealand supported Senegal's call for a possible Secretariat contribution.

22. The representative of Malaysia said that his delegations shared some of the views expressed by Hong Kong, China in their written contribution. He noted that the thrust of the Korean proposal was to accord credit proportional to the improvement index, an index that measured the degree of a Member's improvement deriving from autonomous liberalization measures relative to the present schedule of commitments. The proposed method might give rise to a negative index, especially if the existing commitments were already very open or liberal. His delegation had also difficulties with the steps 1 to 3 proposed in the Korean paper, Job No. 7634, because it was not clear how an objective assessment could be ensured. The Korean paper also seemed to assume that the value of credit was equal for all modes (step 1), which might not be feasible as some modes were considered to be more sensitive than others, and the suggested formula approach might not capture this. In the same way, equal weight should not be attached to each subsector (step 2). The formula approach of setting targets (step 4) and the method in general might not be in line with the existing progressive liberalization approach of GATS. As future autonomous liberalization would presumably be consistent with the ability of the domestic economy to absorb changes, bilateral recognition would be more feasible. Generally, WTO Members should be given the autonomy and flexibility to decide on what sort of unilateral liberalization or deregulation, should be considered for credit recognition. Credit should be determined between the concession seeker and the concession giver, i.e., it should be negotiated. Finally, it was also worth considering according recognition to countries that already had high foreign presence in certain service sectors. His delegation had always argued that Malaysia had one of the highest foreign participation in its financial sector compared with other countries. Nevertheless, no recognition was given to this fact. Instead countries with low foreign presence were praised when they liberalized their markets.

23. The representative of Switzerland said that his delegation shared the view that countries introduced autonomous liberalization measures because it was in their own economic interest. The next question was how to sell this move in a WTO context as a concession which would call for special treatment. He shared the views of the EC regarding transparency and of Hungary regarding binding. Binding was a necessary condition to fully address autonomous liberalization measures in the WTO context. Despite its intuitive appeal, the academic paper presented by Korea actually provided a good illustration of why a formula-based approach was fundamentally difficult to work out. The basic problem in this kind of quantitative approach was that the value of a given liberalization measure could not simply be established across the board for all Members and for all sectors. One of the reasons being the starting-point was different for all Members. Second, if all Members were asked to give a value to potential liberalization measures, the value would depend heavily on the sectors concerned. Value was not an abstract concept since it was heavily linked to offensive or defensive interests of a given Member. Economic modelling and econometrics did not necessarily provide the right response. This pointed to the very simple fact that discussing the value of a specific measure in a specific sector made sense only among interested parties. The main point his delegation wanted to make was that quantification almost by definition was subjective and potentially distortive. In this perspective, he would tend to share the conclusions contained in the submission tabled by Hong Kong, China, namely that it would actually make sense to put forth a

simple multilateral framework within which bilateral or plurilateral negotiations could take place. His delegation also supported Senegal's request for a paper by the Secretariat on this issue.

24. The representative of Brazil said that one of the main problems associated with autonomous liberalization was the lack of the incentive for locking in any new commitment or unilateral liberalization. Therefore, it was important to develop some kind of recognition for this unilateral liberalization. In that regard, his delegation concurred with the ideas expressed in paragraphs 7 to 9 of the Hong Kong, China paper. Two main aspects arose with respect to developing modalities for eventual recognition or credit. The first one was how to assess liberalization that had been undertaken by the Member. The second one was how to use this credit or this recognition in the negotiations. In this regard, Korea's contribution contained interesting points. With regard to how to assess autonomous liberalization, Brazil had come across some factors or criteria, some of them similar to what Korea had laid out in their paper. For example, some consideration could be given in measuring this liberalization to the importance of the sector concerned, whether it was an infrastructural service sector or not. Another point could be the level of development of the Member concerned and the size of the market. With regard to how to treat autonomous liberalization, Brazil could support in principle what was expressed in paragraph 11 of the Hong Kong, China paper. However, this issue should not be tackled exclusively in a bilateral context, but any treatment of autonomous liberalization should be based on multilateral criteria. Finally, in considering the difference between bound and unbound autonomous liberalization, Brazil concurred with India's comments that account should be taken of the level of development of countries. Autonomous liberalization was motivated mainly by reasons of national interest, but binding or not liberalization undertaken autonomously made an important difference for a developing country, especially when it was undergoing structural and regulatory reforms in the services sector, because there was more flexibility to adjust or modify an unbound measure. Brazil supported Senegal's request for a paper by the Secretariat.

25. The representative of Bolivia said that his delegation attached special importance to the question of autonomous liberalization because Bolivia's economy was one of the most open among WTO Members. Autonomous liberalization should be recognized and he supported what had been said by the delegation of Kenya on the question of coherence. Since 1985, and as a result of structural adjustment programmes, Bolivia had applied policies oriented towards liberalization, for instance in telecommunication, transport, etc. Over the last 15 years, Bolivia's commercial partners had benefited from those measures and that was why clear norms for recognition should be elaborated. Recognition should not depend on binding since trading partners benefited from these measures, whether or not they were bound. In this respect, a study might be carried out on the benefits of autonomous liberalization, both in the countries that had adopted the measures and in their trading partners. Like other delegations, Bolivia considered that more work was needed on the modalities and concepts to determine how additional recognition could be given to autonomous liberalization. A Member having undertaken autonomous liberalization could be given credit by being offered better access to the markets of those trading partners having benefitted from the autonomous liberalization measures in question.

26. The representative of Singapore said that there were actually three aspects that needed to be examined in relation to autonomous liberalization: (i) definitions of the terms used in Article XIX; (ii) assessment of the autonomous liberalization; and, (iii) treatment of autonomous liberalization measures. Whatever modalities would ultimately be agreed to, they should not discourage Members from carrying out further liberalization. Recognition should be given to Members who, on their own initiative, had undertaken to open up their market. With respect to definitions, his delegation agreed with paragraph 3 of the Hong Kong, China paper, i.e. that autonomous liberalization referred to measures that were taken by individual Members on a voluntary basis. This liberalization went beyond the scheduled commitments that Members had under the GATS. With respect to assessment and treatment of autonomous liberalization, Members seeking recognition should be prepared to bind, at least in part, the liberalization measures because the nature of the WTO was such that binding or scheduled commitments was the key. It was clear that autonomous liberalization would ultimately

benefit the trading partners of those Members who have undertaken to liberalize autonomously, and, hence, bilateral recognition was one approach that needed to be considered. However, there should also be multilateral criteria. In this regard, paragraph 11(d) of the Hong Kong, China paper should be further considered. He noted that the Korean paper also outlined a multilateral approach which deserved further consideration. His delegation had some concern regarding the proposed step 1 ("scoring for each mode of delivery") of this paper, because this approach might not take into account the different degree of commitments that were made by Members. For instance, a commitment of equity limitation of 40 per cent would score exactly the same as equity limitation of 90 per cent.

27. The representative of the United States recalled that his delegation had proposed a multilateral and a bilateral component to the treatment of autonomous liberalization, and the possibility of using benchmarks to measure autonomous liberalization. Three aspects were important to keep in mind. First, countries should agree to bind what they had undertaken autonomously. Second, trading partners should have an opportunity to provide their assessment of the market access provided by the liberalization. In that regard, the proposal made by Korea, whereby all liberalization would be treated equally, which assumed that any liberalization would be of equal interest to all trading partner across all sectors, did not seem to be realistic. Third, applying any precise quantitative formulas or possibly even qualitative formulas seemed to be difficult. It would be interesting to explore the factors that Hong Kong, China had proposed in paragraph 11. His delegation was not opposed to the Secretariat doing additional work on this issue, but believed it would be fairer to give them more guidance as to what was expected.

28. The representative of Norway said that it seemed difficult to construct a quantitative system for giving credit to autonomous liberalization. It was true that autonomous liberalization raised technical questions, but it was also a political issue. The technicality of the issue should not hamper the progress of the negotiations. The aim of the negotiations was to obtain real and meaningful liberalization laid down in Members' specific commitments and Members' schedules should be a starting-point for negotiations. It was obvious that autonomous liberalization took place because a Member benefitted from it. Norway therefore expected Members to put forward offers which at least reflected their current trade regimes in areas where they had liberalized autonomously. It seemed that the simplest way to deal with autonomous liberalization would be as part of the request-offer process. The suggestions proposed in paragraph 11 of the paper presented by Hong Kong, China, i.e. bilateral recognition of autonomous liberalization, possibly in combination with some form of multilateral recognition, could be a solution. A paper from the Secretariat on this issue might be useful.

29. The representative of Turkey said that the scope of the discussion should be defined before going further. In this connection, definitions and other criteria required some attention. The paper presented by Hong Kong, China could help to initiate a comprehensive discussion. The clearer the definitions would be, the less scope would remain for controversy among Members. Turkey supported the request that the Secretariat should prepare a paper on this topic.

30. The representative of Uruguay agreed that autonomous liberalization was an important theme since it was explicitly foreseen in GATS Article XIX. He concurred that autonomous liberalization was voluntary and should be encouraged rather than impeded. In Uruguay's view, asking a Member to bind liberalization undertaken autonomously in order to get credit, did not seem to be an appropriate solution because it would prejudice the negotiating position of that Member. Currently, a Member which had not bound liberalization in a sector had 100 per cent flexibility; should that Member decide to undertake a commitment, it should get 100 per cent credit. Granting less than 100 per cent credit would discourage autonomous liberalization because the negotiating position of the Member liberalizing autonomously would be impaired. He suggested that the "previous negotiations" mentioned in Article XIX:3 should refer to the Uruguay Round, and perhaps also to the negotiations on financial services and basic telecommunications which took place after the conclusion of the Uruguay Round for those Members who participated. He supported the request made by Senegal that the Secretariat should prepare a background paper on this topic.

31. The representative of Guyana noted that countries liberalizing on an autonomous basis were not necessarily willing to do so. In any case, a Member having liberalized autonomously could not be bound by it. Moreover, autonomous liberalization should be done on an MFN basis, consistent with GATS Article II. In establishing modalities for the treatment of autonomous liberalization, account should be taken of GATS Articles IV and V. Guyana supported the request by Senegal for a paper by the Secretariat.

32. The representative of Mexico said that his authorities were still examining the written contributions made by Hong Kong, China, Korea and the United States. The concept of autonomous liberalization entailed a subjective aspect since different Members could attach a different value to an autonomous liberalization measure in a given sector. Hence, a formula approach, such as that proposed by Korea, might not be the best approach since it might not enable to take into account this subjective value. Concerning paragraph 3 of the Hong Kong, China proposal, he wondered how far the process was voluntary and at which stage it became mandatory since it emanated from a legal text. Article XIX was most important and it should have some influence on WTO Members. Flexibility should be retained to accommodate the special circumstances of developing countries. His delegation was in favour of a multilateral approach to autonomous liberalization, which should be flexible enough to recognise bilateral and plurilateral processes. Mexico generally supported the comments made by Malaysia, Brazil and Uruguay.

33. The representative of Indonesia said that his authorities were still examining the proposals made. By way of preliminary comment, he said that autonomous liberalization should not be confused with international commitments under the WTO. Autonomous liberalization measures were based on domestic concern, relating to economic development. Transforming autonomous liberalization into binding commitments should be a matter for negotiations, taking duly into account special and differential treatment for developing countries. Indonesia supported Senegal's proposal for a Secretariat's paper.

34. The representative of Malaysia said, in the light of comments made by other delegations, he wanted to add to the comments made earlier by his delegation. Autonomous liberalization should be voluntary. Various forms of autonomous liberalization could be examined, but most of them would relate to unbound liberalization. A first type would be a *de facto* fairly liberal market, where the level of liberalization was progressively increased, depending on what this market could bear. Another situation would be starting from a restrictive market, which would imply a more limited liberalization. A third situation could be referred to as a *de facto* bound regime, in the sense that liberalization had taken place in any of the forms already mentioned, and that liberalization had remained stable for a period of time, although not necessarily bound. A fourth form of autonomous liberalization was in terms of measures going beyond scheduled commitments. Lastly, some countries might decide to bind autonomous liberalization, on a voluntary basis. Autonomous liberalization deserving credit and recognition should be that kind of liberalization undertaken at a given time, as suggested in paragraph 4 of the Hong Kong, China paper. The reasons why governments undertook autonomous liberalization should be examined, in particular whether it fell under the objectives set in the preamble of the GATS. A possible conclusion might be that autonomous liberalization could be an important way of achieving the objectives of the GATS, without listing the commitments in a schedule. Recognition and credit were important because autonomous liberalization had to be encouraged. Moreover, it had to be accepted that there was a limit to how much a market could bear, especially in developing countries. He noted that, should a developing country bind autonomous liberalization, that country would be expecting concessions from other trading partners, and not recognition or credit. The parameters to be taken into account for autonomous liberalization could include the level of development of countries, the stability of the liberalization undertaken autonomously, and also the presence of foreign services suppliers in the market. Binding autonomous liberalization should not be a condition for being granted credit. A form of credit could be concessions from trading partners, possibly unbound, which would allow those trading partners to take them back in case the country in question withdrew its autonomous liberalization.

35. The representative of Senegal thanked those delegations who had supported his request for a Secretariat's background paper. Such a paper would be important to help a number of delegations, in particular developing countries, to address this complicated issue. In the view of his delegation, this paper could include issues such as the historic background and how the interests of developing countries had been taken into account in the Uruguay Round negotiations. The paper could also contain a checklist of issues, such as the link with Article IV of the GATS, the issues of notification and assessment. Finally, the issue of autonomous liberalization should become a standing agenda item for the Council.

36. The representative of Hong Kong, China wished to reply to two questions made by Japan. First, the terms "de facto" and "actual" meant the same thing. Second, Hong Kong, China did not yet have a definite idea of what should be meant by "recognition". However, it seemed that a formula-type approach might be a difficult approach. He took note of the comments made regarding transparency, a principle that Hong Kong, China had always been advocating. On the other hand, autonomous liberalization should not be discouraged. Concerning further work, he agreed that a Secretariat's paper would provide help to focus discussions. It might be useful to include some negotiating history, for both GATT and GATS, including negotiating history of Article XIX. The paper could include a section dealing with the meaning of the words contained in Article XIX, or words such as "credit", "recognition", "modalities", etc. It could also address the various types of autonomous liberalization. It was, however, up to the Secretariat to judge whether they could produce such a paper.

37. The representative of the Republic of Korea said that the formula proposed in the informal paper presented by his delegation should not necessarily be seen in contradiction with a multilateral approach. The quantification model proposed in the paper could be workable and should therefore be further discussed. It could be used in combination with other approaches. Korea would welcome some kind of checklist by the Secretariat, which would reflect points made during this discussion.

38. The Chairman said that the discussion had been helpful, notwithstanding the fact that most delegations had only made preliminary comments. In his view, there was valuable material on the table, which would be useful in advancing work on the negotiating guidelines, since they should contain a reference to autonomous liberalization. However, it was clear that the discussion was not finished and that Members would have other opportunities to address those issues. On the question of a Secretariat paper, he suggested that it might be premature, pre-empting the work on the guidelines. He considered that a Secretariat paper should not pre-empt work that could be made on autonomous liberalization for the purpose of developing and finalizing negotiating guidelines. In addition, the Secretariat should be allowed to reflect on whether and when they could undertake this task, given the fact that Members had made preliminary comments, and that many Members had given no indication of what they would expect from the Secretariat.

39. A representative of the Secretariat noted that a number of questions had been raised during the discussion, some of which might be addressed in a conceptual way. Further historical guidance might also be provided. However, it would not be possible for the Secretariat to provide any legal analysis, especially as no jurisprudence existed, and it could not of course take positions on contentious issues. As proposed by the Chairman, the Secretariat would give more thought to this proposal, in particular in the light of the comments made by delegations.
